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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,511	02/12/2004	Yousef Georges Aouad	9503	5249

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EXAMINER
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PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER
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1746

MAIL DATE	DELIVERY MODE
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06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/777,511

Applicant(s)

AOUAD, YOUSEF GEORGES

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 23 April 2007 have been fully considered but they are not persuasive.
2. Turning to the rejection(s) of the claims under 35 U.S.C. § 102, it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Anticipation under 35 U.S.C. § 102 is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In.re*

*Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

3. Thus, regarding the §102 rejection over RODD applicant argues that RODD does not disclose the newly introduced language wherein the compartments are punctured when closed in the housing structure. For claim 1, this is not persuasive because the claim is directed to an "insert" and the intended use of a housing puncturing the insert as claimed does not further limit the claimed "insert" but rather is directed to an operation of the housing when used with the insert. Thus, RODD still reads on the claimed structural limitations of the insert for at least reasons of record. For claim 13, applicant's argument is not persuasive because RODD still reads on the claimed structural limitations of the "system". Specifically, the compartment(s) of RODD is inside the housing structure when it is punctured to release the additive(s) and reads on

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the invention as claimed. Accordingly, recitation of RODD reads on applicant's claimed structural limitations of the insert of claim 1 and system of claim 13.

4. Similarly regarding the §102 rejection over VERHERBRUGGHEN, the recitation of the housing puncturing the insert does not further limit the structure of the claimed "insert". However, the slight modification from "at least one compartment" to "two compartments" renders the rejection moot and the §102 rejection is withdrawn. However, this slight modification has resulted in a §103 rejection further discussed below.

5. Regarding the §103 rejection over RODD, applicant generally points to MPEP § 2143 then specifically argues that RODD does not teach or suggest the newly added claim limitations. This is not persuasive for reasons of record described above. Moreover, applicant's argument of teaching away is not persuasive because the limitations which applicant relies are either not further limiting (i.e. the claimed insert of claim 1) or readable on the claimed invention (i.e. claim 13) and are anticipatory thereby rendering teaching away arguments (proper for obviousness combinations) moot.

6. Applicant alleges that the Office mischaracterizes RODD and argues that RODD does not disclose "...a key of a "unique"...shape" nor of one "... in the form of an aperture" or the aperture being circular and the notch being U-shaped. The Examiner submits that express recitation in RODD of a "key" being "unique" in shape is not a requirement for an anticipation rejection. The law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760,

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772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). In the instant case, relative terms such as those claimed are subject to broad interpretation and the position is taken that essentially all structures are "unique" in shape. Other broad and general terms such as "key" and "aperture" are readable on structures which are convex and concave, respectively, and are much more significant in breadth than it appears what applicant believes is claimed. As clearly discussed on page 3 of the Office action, Figures 2 and 3 readily shows a circular aperture (readable on a "key") in the middle between the plural compartments (5) and the notch formed in the middle of the insert being "U-shaped" or "curved". This would be readily ascertainable by one having ordinary skill in the art at the time the invention was made in view of the structural limitations clearly illustrated in RODD and such structure "reads on" applicant's claimed invention.

7. Regarding the §103 rejection over VERHERBRUGGHEN, applicant generally applies "at least one of the *prima facie* elements of obviousness" as mentioned for RODD and specifically argues that there is no suggestion to combine the references. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, RODD teaches that it is well

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known in the washing machine art to provide the detergent dispenser within the drum of a washing machine. Thus, one having ordinary skill in the art at the time the invention was made would have been motivated by this well known teaching to provide the insert dispensing system of VERHERBRUGGHEN within a washing machine drum, as disclosed by RODD, to provide the detergent dispensing inside a washing machine. Moreover, it would have been well within the knowledge generally available to one of ordinary skill in the art to supply the dispenser of VERHERBRUGGHEN in any general location such that detergent is supplied to the laundry to be washed in the washing machine. The Examiner notes that applicant provides no clarification on why such modification is patentable and is not an obvious modification in view of the cited references.

8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Specifically, applicant argues that VERHERBRUGGHEN teaches away since the combination of the dispensers would not function in the same manner as claimed. It appears applicant is attempting to combine the references in a different manner than that relied upon by the Examiner. RODD is cited for the location of the dispenser and not the combination of dispensers as argued by applicant. There is nothing in VERHERBRUGGHEN that teaches away from relocating the dispenser as described in the rejection. Accordingly, the rejection is maintained.

***Claim Rejections - 35 USC § 102***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1-6, 8, 10-11, 13-23, 25, 27 & 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/07703 to RODD *et al.* (hereinafter "RODD"; continuation application U.S. Patent 6,581,800 used as unofficial translation document; both references cited by applicant). Re claims 1-2, 4-6, 8, 13, 15, 18-19 & 23, RODD discloses a laundry additive dispensing system comprising a housing structure (1) positioned in a fixed spatial relationship to a washing machine drum (3), and an insert (4) with plural compartments (5) for conventional wash additives (i.e. detergent and/or rinsing agent; col. 6, lines 64-67) and a key of a "unique" and circular shape between compartments in the form of an aperture which interfaces with the housing to assure proper association therewith (see entire document, for instance, Figures 1-3 and relative associated text). Re claims 3, 10-11, 20-22, 25 & 27, RODD further discloses compartments (5) having V-shaped/U-shaped bottoms and the key being located between the compartment bottoms, and the key being a U-shaped notch (see Figures 3 and 2, respectively). Re claim 14, RODD further discloses the housing structure having a base and openable/closable lid (see Figures 4-7 and relative associated text). Re claims 16-17, RODD discloses the insert being constructed on a thin plastic film (col. 4, line 64). Accordingly, recitation of RODD reads on applicant's claimed invention.



***Claim Rejections - 35 USC § 103***

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 1 & 4-11 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1195350 to VERHERBRUGGHEN *et al.* (hereinafter "VERHERBRUGGHEN"). Re claims 1 & 4-5, VERHERBRUGGHEN discloses a detergent insert (10) having a substantially V-shaped key aperture (30) formed of a curved notch with a characteristic shape capable of interfacing with a curved post (27) of housing (1) (see Figures 3-8 & paragraph [0018]). Re claims 6-7, VERHERBRUGGHEN further discloses that the insert aperture and housing post may be reversed as an insert post and housing aperture (col. 5, lines 56-58). Re claims 8-9, the aperture is construed to read on substantially circular or triangular. Re claims 10-11, the key and housing interface is shown to be "curved". While VERHERBRUGGHEN discloses "containers" in the plural form and using various liquids, solids gases as laundry additives VERHERBRUGGHEN does not expressly disclose the insert having two compartments. However, the position is taken that it would have been within the knowledge generally available to one having ordinary skill in the art at the time the invention was made to provide plural compartments for plural doses or plural additives given that it is common knowledge in the washing machine art to provide extra detergent/additives for use of their well known purposes. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193

USPQ 8; *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Moreover, it has been held that making integral structures separate (i.e. a single container into two containers) for their intended purpose involves only routine skill in the art. See *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961). Thus, simply going from one detergent compartment to two detergent compartments is considered an obvious modification absent secondary considerations.

13. Claims 9, 12 & 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over RODD. Recitation of RODD is repeated here from above. While RODD expressly discloses the aperture being circular and the notch being U-shaped, RODD does not expressly disclose other geometrical shapes such as the aperture being triangular or the notch being V-shaped. It would have been within the level and skill of one having ordinary skill in the art at the time the invention was made to slightly modify the shape of the circular aperture to a triangular aperture or modify the shape of the U-shaped notch forming the key to the shape of a V-shaped notch, since such a modification would have involved a mere change in the form or shape of a component. A change in form or shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

14. Claims 13-14, 16-17, 20-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over VERHERBRUGGHEN in view of RODD. Recitation of VERHERBRUGGHEN is repeated here from above. VERHERBRUGGHEN discloses

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using the laundry additive insert in electronic laundry appliances but does not expressly disclose using the insert in a housing structure positioned within a washing machine drum. As cited above, RODD teaches that it is known to provide a washing machine dispenser using an additive insert within the drum of a washing machine. Therefore, the position is taken that it would have been within the level and skill of one having ordinary skill in the art at the time the invention was made to supply the replaceable detergent insert dispensing system of VERHERBRUGGHEN within a washing machine drum, as disclosed by RODD, in order to provide detergent dispensing inside a washing machine. Moreover, there would be a reasonable expectation of success in supplying the detergent dispensing system of VERHERBRUGGHEN in various electronic laundry appliances including a washing machine, such being well within the level and knowledge of one having ordinary skill in the art.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 6,845,888 to VERHERBRUGGHEN et al., which is substantially cumulative to VERHERBRUGGHEN cited above; U.S. Patent No. 6,581,800 to RODD et al., which is substantially cumulative to RODD cited above.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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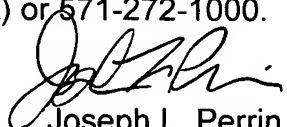
17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Joseph L. Perrin, Ph.D.  
Primary Examiner  
Art Unit 1746

JLP